

CHAPTER 2
COMPLIANCE WITH CODE OF FEDERAL REGULATIONS (CFR)
40 CFR 171 (reference (c))

A. DEPARTMENTAL RESPONSIBILITY. Section 17 1.7(a) of reference (c)

1. DoD Program Responsibility

a. The **Office** of the Secretary of Defense (OSD), as lead agency, shall have overall responsibility for policy development implementation, and surveillance of the DoD Pest Management Program (reference (e)) . The address of the lead agency is: Office of the Secretary of Defense, Under Secretary of Defense (Acquisitions and Technology), Washington, DC 20301-4000.

b. The **AFPMB**, chartered by the lead agency, reviews policy matters and proposes policy changes for the Department of Defense (reference (e)). The address is: Armed Forces Pest Management Board, ATTN: Executive Director, Forest Glen Section, Walter Reed Army Medical Center (**WRAMC**), Washington, DC, 20307-5001, Telephone: (301) 295-7476.

2. Applicability

a. This document is the agency plan for the Department of Defense and applies to DoD employees applying any pesticides on DoD land or property under the Federal Insecticide, Fungicide, and **Rodenticide Act (FIFRA)** (reference(a)) jurisdiction. In the infrequent instances when DoD employees will be applying pesticides on other property, they will work under the supervision of appropriately certified State or Federal personnel. Terms used in this Plan that are unique to the military pest management program are defined in the definitions section.

b. This Plan does not apply to pesticide applicators working under the purview of the civil works functions of the Department of the Army, facilities occupied by Component activities when real property control is under another Component or Government agency, and State-owned and State-operated (tided) installations or facilities that the National Guard uses part-time or **full** time.

3. Adherence to State Certification Standards

a. The Department of Defense cooperates with individual States by adhering to substantive standards that meet or exceed those established by the State or EPA. If a given State's substantive standard is more stringent **than**, or is additional to, standards established in this Plan, the State should **notify** the Department of Defense and request compliance in accordance-with E.O. 12088 (reference (f)) and this Plan. Upon notification by the State of a **substantive standard** issue, **the** Department of Defense will attempt to mediate the issue with the State. If the Department of Defense is unable to reach an agreement with the State, the Department of Defense will immediately forward **all** such notifications to EPA, who will render its opinion as to whether the standard is substantive or administrative in nature. The EPA administrator may mediate conflicts or cases of disagreement between the Department of

Defense and a State.

b. Commercial **firms** that contract to apply pesticides for the DoD Components are not DoD pesticide applicator employees. They may be trained by but may not be certified by the Department of Defense. All contractor pesticide applicators must be certified by the appropriate regulatory authority under the provisions of EPA- approved plans.

c. The Department of Defense will record and report instances of pesticide misuse and falsification of records by contractors to the appropriate certifying EPA or State agencies. The Department of Defense will cooperate with a State or EPA in any subsequent investigation or actions.

d. The Components Responsibility

(1) Each Component, except the Joint Chiefs of Staff and the **Combatant Commands**, shall designate a senior pest management consultant as the primary point of contact for the Component's pest management training program under DoD Instruction 4150.7 (reference (e)).

(2) Each Component's senior pest management **consultant**, except the Joint Chiefs of Staff and the Combatant Commands, shall nominate pest management consultants to serve as **certifying** officials to certify the competency of the Component's pesticide applicators (reference (e)). Component nominee's qualifications shall be formally reviewed and if qualified, approved and acknowledged by the Executive Director of the AFPMB.

B. LEGAL AUTHORITY. Section 171.7(b)(1) of 40 CFR (reference (c))

1. DoD Authority

In accordance with **FIFRA** (reference (a)), 40 C.F.R. Part 171 (reference (c)), and 42 FR 41907-41908 (reference (d)), the Secretary of Defense may submit to EPA for approval, a Plan for the certification of DoD employees as applicators of restricted use pesticides. Once this certification Plan is approved by EPA, DoD employees certified in accordance with the Plan may, without obtaining any additional State **certification**, use and supervise the use of restricted use pesticides while engaged in the performance of their official duties.

2. Implementing Regulations

a. Department of Defense

DoD Instruction 4150.7 dated April 22, 1996 (reference (e))
Department of Defense Pest Management Program

b. Department of the Army and Defense Logistics Agency

Army Regulation 420-76 dated December 15, 1986
Facilities Engineering Pest Management Program

- c. Air Force Regulation 91-22/Army Regulation 40-574, dated April 26, 1976
Aerial Dispersal of Pesticides
- d. Department of the Navy
OPNAV Instruction 6250.4A dated November 28, 1990
Pest Management Programs
- e. Department of the Air Force
Air Force Instruction 32-1053 dated May 10, 1994
Pest Management Program

C. DENYING, SUSPENDING AND REVOKING CERTIFICATION: Enforcement. Section 171.7(b)(1)(iii)(A) of 40 CFR (reference (c))

OSD or the DoD Components may deny, suspend, or revoke the certificate of any DoD employee who violates any provision of FIFRA (reference (a)) or falsifies records under this Plan. Situations that may be cause for certificate denial, suspension or revocation include, but are not limited to:

1. Misuse of a pesticide;
2. The falsification of any records required to be maintained by the certified applicator;
3. Pending investigation of pesticide-related episodes or accidents resulting in human or animal injury or environmental contamination, such as to water supplies, food and foodstuffs;
4. Conviction under any Federal or State pesticide or environmental law,
5. Failure to maintain records as required by Federal or State statute or DoD and Component regulations;
6. Failure to comply with DoD and Component pest management directives or regulations;
7. Failure to use appropriate safety equipment as identified by the pesticide label;
8. Inability to perform work in a safe manner due to incompetence, carelessness or physical or mental deficiency; and
9. Pending outcome of criminal or civil action. (See subsections C. 1. through 8., above.)

D. SUSPENSION OR REVOCATION OF CERTIFICATION: Legal Authority. Section 171.7(b)(1)(iii)(B) of reference (c)

Installation commanders shall initiate a formal review, if FIFRA (reference (a)) violations are suspected. Any certified applicator who violates any provision of reference (a), as amended, or

the implementing regulations will have his or her certificate reviewed for possible suspension or revocation. Suspected violations, such as pesticide misuse or recorded falsification, shall be reported through appropriate command channels to the office of the certifying official. The **certifying** official shall review the suspected violation and determine if further action is required. If no action is warranted, the installation commander shall be notified in writing that a review of the suspected violation has been conducted and that it has been determined that a violation of reference (a) has not occurred. If the certifying official determines that a violation may have occurred, he or she shall initiate action to temporarily suspend the certificate of the applicator(s) and forward the matter to the lead agency, Under Secretary for Defense (Acquisition and Technology (USD (A&T))) for review and **final** action. If the lead agency determines that a violation of reference (a) has occurred, that agency shall report information on the case and action taken by the Department of Defense to the EPA Administrator.

E. RIGHT OF ENTRY BY CONSENT OR WARRANT: Right of Entry, Section 171.7(b)(1)(iii)(C) of 40 CFR (reference (c))

DoD certifying officials have the authority to observe actual operations and any other aspect of the program at installation levels.

In addition, the Department of Defense will cooperate with appropriate agents or certifying officials (Federal or State) to admit such officials to DoD installations, consistent with national security requirements, to ensure compliance with Federal and State pesticide laws. Federal or State officials should contact installation commanders to arrange visits and to ensure that any national security concerns are addressed before the visit. It is DoD policy that requests be accommodated as expeditiously as possible. The installation commander shall designate a point of contact to accompany visiting officials to ensure that they have access to appropriate areas of interest.

F. LEGAL REQUIREMENT: Unlawful Use of Pesticides. Section 171.7(b)(1)(iii)(D) of reference (c)

It is unlawful for persons other than certified applicators or persons working under their direct **supervision**, as defined in this plan, to use restricted use pesticides. The applicator or direct supervisor must be certified for the category of pesticide application being undertaken. **Similarly**, contract pesticide applicators **shall** be **certified** in, or work under the direct supervision of personnel certified **in**, State categories commensurate with the work to be performed. Contract specifications shall require that an appropriately certified individual be physically present on the DoD installation during contractor restricted use pesticide applications.

G. RECORD KEEPING: Pest Management Reporting Requirements. Section 171.7(b)(1)(iii)(E) of reference (c)

Record keeping **and** reporting procedures provide management personnel an opportunity to review the pesticide data on operations, to include pesticide names, EPA registration Number, amounts, methods of application, uses, places (sites), dates **and** other pertinent information (such as the target pests). Each **military** instigation **performing** pest management operations prepares

and submits to the appropriate organization on a quarterly or more frequent basis, a detailed record, DD Form 1532, "Pest Management Report" and shall retain a DD Form 1532-1, "Pest Management Maintenance Record" in accordance with standardized DoD procedures. Such operational records shall be maintained by the installation and/or public works engineer at the installation for no less than two years and shall be available through the installation commanding officer to appropriate Federal and State officials upon request. After two years, these records shall be archived for permanent retention.

H. QUALIFIED PERSONNEL TO CARRY OUT THE PLAN. Section 171.7(b)(2) of 40 CFR (reference (c))

The AFPMB and the senior consultants of the DoD Components, including civilian and military pest management consultants, supervisors, and certified applicators shall provide technical guidance for the DoD pest management program. For purposes of determining applicable requirements, DoD pest control supervisory and applicator personnel are considered "commercial applicators" as defined in Section 2(e)(3) of FIFRA (reference (a)). The Department of Defense does not employ personnel that meet the FIFRA definition of "private applicator".

I. FUNDING. Section 171.7(c) of reference (c)

The DoD Components shall plan, program, and budget for this Plan in accordance with DoD Instruction 4150.7 (reference (e)).

J. TRAINING AND CERTIFICATION REPORTS. Section 171.7(e) of reference (c)

The AFPMB shall prepare an annual report on training and certification under the DoD Plan and shall submit the report to the EPA Administrator. The report will contain information outlined in 40 CFR 171.7(d) (reference (c)) and may include other information required by the Administrator. This report has been cleared in accordance with FIRM 210-9.202-2 (reference (g)). The related DoD internal report required by 40 CFR 171.1(d) (reference (c)) and further described in DoD Instruction 4150.7 (reference (e)) has been assigned DoD internal report control symbol DD-A&T(A&R)1080 in accordance with DoD 8910.1 -M (reference (h)). The report will be submitted by March 31 each year and provide information on activities during the previous fiscal year.

K. CERTIFICATION CATEGORIES. Section 171.3 of reference (c)

1. The Department of Defense adopts and offers certification in the following EPA pest control categories to meet the specific requirements for DoD pesticide use:

<u>Pest Control Category</u>	<u>EPA/DoD Category</u>
Forest Pest Control	2
Ornamental & Turf Pest Control	3

Aquatic Pest Control	5
Right-of-Way Pest Control	6
Industrial, Institutional, Structural and Health-Related Pest Control	7
Public Health Pest Control	8
Demonstration and Research Pest Control	10

2. In **addition**, the Department of Defense retains DoD Category 11- Aerial Application. This category includes individuals using or supervising the use of aerial application of pesticides to control pests having medical and public health importance or general agricultural, forest, aquatic, or Right-of-Way application requirements.

Aerial Application pest Control .	11
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3. The following three new pest control subcategories have been added.

SUBCATEGORY - Soil Fumigation Pest Control	3a
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This subcategory includes individuals using or supervising the use of soil fumigants to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.

SUBCATEGORY - Grassland and Non-Crop Agricultural Land Pest Control	6a
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This subcategory includes individuals using or supervising the use of pesticides on grassland and non-crop agricultural land.

SUBCATEGORY - Stored Products Fumigation Pest Control	7a
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This subcategory includes individuals using or supervising the use of fumigants to control pests in the maintenance, production and storage of stored products.

L. COMPETENCY AND CERTIFICATION, Section 171 .7(e)(1)(I)(C & D) of 40 CFR (reference (c))

1. Requirements

a. DoD employees desiring certification in any of the DoD categories must complete a mandatory core training program as well as training in the applicable DoD pest control category (ies), as described in 40 CFR 171.4 (b) and (c)(reference (c)) and Appendix A of this Plan

b. Written and performance testing will be conducted for the core phase (general standards) and categories (specific standards) in which training and certification is desired.

Satisfactory completion of training courses, satisfactory performance on written examinations, and demonstration of the ability to **perform** applicable procedures **and/or** use appropriate dispersal equipment qualifies an individual for certification.

c. Professional pest management personnel are not required to undergo Formal or Apprenticeship training but shall demonstrate competency by written examination as outlined in subsection D.4. of Chapter 3 of this Plan if certification is required.

d. The Department of Defense has adopted the standards of competency required under Section 171.4 of 40 CFR (reference (c)). DoD standards may exceed those stated in Sections 171.4(b), (c) and 171.6 of reference (c) and as indicated in Appendix A.

2. Core Competency Standards

The Department of Defense adopts EPA Core Competency standards in Sections 171.4 (a) and (b) of reference (c). DoD-certified applicators shall demonstrate practical knowledge of the principles and practices of integrated pest management and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification. See Appendices A and B. Successful passage of a comprehensive examination covering the following core general areas is prerequisite for certification in specific categories:

a. Recognizing common pests to be controlled and damage caused by them, including:

(1) Common features of pest organisms and characteristics of **damage/traces** needed for pest recognition;

(2) Recognition of relevant pests; and

(3) Pest development and biology as maybe relevant to problem identification and control.

b. Label and labeling **comprehension**, including:

(1) Requirement and/or necessity for use consistent with label;

(2) General format of labels and labeling; .

(3) Understanding of product vs. chemical and common names, signal words and symbols, and **precautionary** statements commonly appearing on label and/or labeling;

(4) Classification of product (general use vs. restricted use);

(5) Protective clothing and equipment requirements;

(6) Environmental hazard statements;

- (7) Preharvest or reentry restrictions;
- (8) Storage and disposal instructions;
- (9) When to read different sections of label **and/or** labeling; and
- (10) Directions for use section:

- (a) Crop and/or animal and/or site.
- (b) Dosage instructions.
- (c) Timing and methods of application.
- (d) Mixing directions (if applicable).
- (e) Pests to be controlled.

c. Recognizing local environmental situations that must be considered during application to avoid contamination, including:

- (1) Weather factors that **affect** pesticide application and why;
- (2) Factors that affect **drift**;

(3) Factors that **affect** runoff and other aquatic contamination (including formulation, site, amount of pesticide, soil type, rainfall, drainage, buffer zones, direct application to waterways); and

- (4) Presence of wildlife, bees, aquatic areas, and other non-target areas.

d. Recognizing poisoning symptoms and procedures to follow in case of a pesticide accident, including:

- (1) Signs and symptoms of pesticide poisoning; and

(2) First aid (including recognition of pertinent information on label) and other procedures to be followed in case of a pesticide **accident**;

e. Storage of pesticides and containers, including:

- (1) Appropriate storage facility characteristics;
- (2) Storage facilities supplies; and
- (3) Proper storage and identification of pesticide containers.

f. Disposal of pesticides, containers and **rinseates**, including:

- (1) Proper methods of disposing of excess pesticides;
- (2) Proper methods of disposing of pesticide **rinseates**;
- (3) Proper methods of disposing of used pesticide containers; and
- (4) Consequences of improper disposal (including health, environmental and legal precautions).

g. Legal responsibility, Laws and Regulations (and Liability information), including:

- (1) Pertinent State **and/or** Federal pesticide laws and regulations not previously discussed; —
- (2) Types of situations in which applicator could be held liable;
- (3) Liability **and/or** penalties for failure to follow information on labels and/or labeling and other laws and regulations;
- (4) The need for record keeping and how to keep records; and
- (5) Other Federal laws that **affect** pesticide applicators (such as the Resource Conservation Recovery Act (reference (I)), the Federal Food and Drug Cosmetic Act (reference (j)), the Clean Water Act (reference (k)), Safe Drinking Water Act (reference (l)) **and** Migratory Bird Treaty Act (reference (m))).

h. Safety, including:

- (1) Acute toxicity;
- (2) Chronic effects;
- (3) Concept of accumulative effects;
- (4) Concept that risk is a function of both toxicity and exposure;
- (5) Common routes of pesticide exposure (oral, dermal and inhalation);
- (6) Protective clothing and equipment (including body covering, goggles, aprons, gloves, **hat**, **foot** coverings, goggles and/or face shields, and respirators);
- (7) Care and maintenance of protective clothing and equipment

- (8) Personal hygiene;
- (9) Proper mixing **and/or** loading of concentrated pesticides; and
- (10) Closed handling systems.

I. Reentry and “worker protection including:

- (1) Definition and importance of reentry intervals;
- (2) Types of reentry intervals;
- (3) Warnings to workers and reentry intervals;
- (4) Content of warning to workers;
- (5) Early reentry; and
- (6) Other worker protection rules.

j. Pesticides, including:

- (1) Types of pesticides;
- (2) Choosing the correct pesticide;
- (3) Typical formulations (characteristics, advantages, disadvantages, main uses);
- (4) Pesticide compatibility;
- (5) **Adjuvant;**
- (6) **Surfactants;** and
- (7) Factors that influence effectiveness or lead to such problems as resistance to pesticides.

k. Pest Control Strategies - Integrated Pest Management factors such as:

- (1) Insect and other arthropod pests;
 - (a) Insect control strategies; and
 - (b) Importance of accurate pest identification and timing in the pest’s life cycle to control strategies.

(2) Plant disease pests:

- (a) Plant disease control strategies;
- (b) Types of control strategies; and
- (c) Importance of timing in weed control strategy.

(3) Weeds:

- (a) Weed control strategies; and
- (b) Importance of timing in weed control strategy.

(4) Mollusk control strategies (if applicable); and

(5) Vertebrate control strategies.

1. Application equipment, factors such as:

(1) Typical agricultural pesticide spray equipment (characteristics, advantages, disadvantages, and main uses);

(2) Nozzle patterns and materials;

(3) Sprayer selection, use and care;

(4) Granular applicators (characteristics, advantages, disadvantages, main uses, selection, use and care);

(5) **Chemigation** equipment (characteristics, advantages, disadvantages, main uses, selection, use and care); and

(6) Cleanup of equipment after use.

m. Calibration, factors such as:

(1) Mixing soluble and wettable powders;

(2) Mixing liquid concentrate formulations;

(3) Determining size of area to be treated;

(4) Considerations before calibration of sprayer;

(5) Selecting nozzle tips;

(6) Adjusting nozzle output;

- (7) Swath width and how to calibrate it;
- (8) Field calibration of sprayers; and
- (9) Calibration of granular applicators (if applicable).

n. Proper transportation of pesticides.

o. Groundwater Protection, factors such as:

- (1) Nature of **groundwater**;
- (2) Factors that affect groundwater contamination; —
- (3) Local groundwater conditions; and
- (4) Applicator practices that impact on groundwater contamination.

p. Endangered Species Protection, factors such as;

- (1) Endangered Species Act;
- (2) Concept of habitat;
- (3) Understanding and using County Bulletins and/or County Extension Service Bulletins; and
- (4) Ways pesticides may harm endangered species.

q. Responsibility of applicators to use pesticides properly to protect such products for **future** use and supervision responsibilities of certified applicators.

3. Competency Examinations. Section 171.7(e)(1)(I)(C&D) of 40 CFR (reference (c))

a. Written Requirements. A closed book written examination will be required to determine competency in general and applicable specific standards outlined in Section 171.4 of reference (c), and Appendix A of this **Plan**, for each category of certification. Testing shall be based on-examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification and areas of competency outlined in the general and specific **standards** of competency. **Examinations** may include true-false, multiple choice, completion, and problem type questions and will require a passing score of at least 70%. Sample examination questions are shown in Appendix B.

b. Performance Requirements. Performance testing shall be conducted for the core

phase (general standards) and the categories (specific standards) in which training and certification is desired. Satisfactory completion of training courses, written examinations and demonstration of the ability to **perform** a procedure or use appropriate dispersal equipment qualifies an individual for certification. Upon qualification of an individual, the training center will notify the appropriate pest management consultant (**certifying official**) that the individual completed formal training requirements for certification in designated categories, as described in section D. of Chapter 3 of this Plan.

M. PROCEDURES FOR ISSUING CERTIFICATES OF COMPETENCY. Section 171 .7(e)(2) of 40 CFR (reference (c))

Personnel **successfully** completing certification requirements for the **core** and one or more of the pest control categories shall be issued a DD Form 1826, "Certificate of Competency, " 8 1/4" X 11" and a DD 1826-1, "Pesticide Applicator" wallet size card (see Appendix C). Certificates shall be issued to pest management personnel by the appropriate certifying **official**. To identify certified personnel, a uniform numbering system shall be used in the issue of certificates. See Appendix E.

N. MAINTENANCE OF THE PLAN. Section 171 .8(a) of reference (c)

1. Installation pest management plans shall include provisions to ensure that certified pesticide applicators comply with standards for the use of restricted use pesticides and carry out their responsibility to provide adequate supervision of non-certified applicators. Such plans shall also **specify** pest control program standards and shall be reviewed and approved by pest management consultants annually under DoD Instruction 4150.7 (reference (e)). All pesticide applications and other pest management **functions** are periodically reviewed for compliance with the installation's pest management plan. Use of DoD-certified pesticide applicators, or **State-**certified pesticide applicators in the case of contract operations, is a mandatory requirement for each installation pest management plan.

2. Every three years, DoD-Certified applicators must attend a DoD pes. management recertification training course and take and pass written category tests to maintain DoD certification. The **certifying** official may extend an individual's certification for cause; e.g., illness, family emergency, unscheduled military **deployment**, on a one time basis for a period of not more than six months. Recertification training is conducted to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides **safely** and properly.